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INTERSTATE COMMERCE COMMISSION

Dated as of June 11, 1992

CONDITIONAL SALE AGREEMENT ASSIGNMENT

between

TRENTON WORKS LAVALIN INC.
(Assignor)

and

SUN LIFE ASSURANCE COMPANY OF CANADA
and
THE MUTUAL LIFE ASSURANCE COMPANY OF CANADA
(Assignees)

in respect of

Eighty (80) Five-Pak Double Stack Container Railcars

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Schedules

- A. NOTICE OF ASSIGNMENT
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CONDITIONAL SALE AGREEMENT ASSIGNMENT executed in the City of Montreal as of the 11th day of June 1992

BETWEEN:

TRENTON WORKS LAVALIN INC., a corporation organized and existing under the laws of Canada with an office in the City of Trenton, Province of Nova Scotia, Canada (hereinafter referred to as the "Assignor");

AND:

SUN LIFE ASSURANCE COMPANY OF CANADA, a corporation organized and existing under the laws of Canada with an office in the City of Montreal, Province of Quebec, Canada

and

THE MUTUAL LIFE ASSURANCE COMPANY OF CANADA, a corporation organized and existing under the laws of Canada with an office in the City of Waterloo, Province of Ontario

(the "Assignees")

WHEREAS pursuant to a conditional sale agreement dated as of April 15, 1992 and made between the Assignor and Canadian National Railway Company, the Assignor sold to Canadian National Railway Company eighty (80) five-pak double stack container railcars, as defined in the conditional sale agreement, upon the terms and conditions of the conditional sale agreement;

WHEREAS by a certain Loan Agreement between the Assignees and the Assignor dated as of June 11, 1992, the Assignees have agreed to lend certain monies to the Assignor to assist the Assignor in the financing of the said container railcars;

WHEREAS it is a requirement of the Assignees that the Assignor execute and deliver to the Assignees this Assignment prior to advance of the funds under the Loan Agreement to the Assignor;

NOW, WHEREFORE, this Conditional Sale Agreement Assignment witnesseth that for ten dollars and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto have agreed as follows:

1. **DEFINITIONS**

For all purposes of this Assignment, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings and all other terms shall have the meaning ascribed to them in the Conditional Sale Agreement:

"Assignment" means this Conditional Sale Agreement Assignment together with Schedules "A" and "B" hereto (which form an integral part hereof) as originally executed by the parties hereto or as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof;

"Assigned Rights" means, as to each of the Assignees, fifty percent (total one hundred percent) of all Assignor's rights, title, ownership, benefit and interest in and to the Conditional Sale Agreement, including, for better certainty, without limitation to the generality of the foregoing, title to, ownership of and property interest in the Equipment, and all monies payable to or on the account of the Assignor under the Conditional Sale Agreement, and all other rights and benefits whatsoever thereby accruing to the Assignor; but excluding all Assignor's obligations, duties or liabilities pursuant to the Conditional Sale Agreement or this Assignment or by virtue of or in connection with the Conditional Sale Agreement;

"Conditional Sale Agreement" means the Conditional Sale Agreement dated as of April 15, 1992 between the Assignor and Canadian National Railway Company providing for the sale of the Equipment by the Assignor to Canadian National Railway Company, including any documents issued or to be issued pursuant thereto, and for better certainty, the Statement of Purchase Price (in the form of Schedule 4 to the Conditional Sale Agreement) and the Letter related to Purchase Price and Interest (in the form of Schedule 6 to the Conditional Sale Agreement);

"Acknowledgment and Consent" means an Acknowledgment and Consent in the form of Schedule "B" hereto to be executed by the Purchaser.

"Delivery Date" means the date or dates the Equipment or a Unit thereof is delivered to and is accepted by the Purchaser pursuant to the Conditional Sale Agreement;

"Equipment" means the eighty (80) five-pak double stack container railcars as more particularly defined in the Conditional Sale Agreement;

"Loan Agreement" means the Credit Agreement dated as of June 11, 1992 between the Assignor and the Assignees and including any documents issued pursuant thereto;

"Notice of Assignment" means a Notice of Assignment in the form of Schedule "A" hereto to be executed and sent by the Assignor to the Purchaser;

"Purchaser" means Canadian National Railway Company.

2. ASSIGNMENT AND SALE

2.1 Subject to the terms and conditions of this Assignment, the Assignor for the purpose of securing the payment of all amounts from time to time due and owing by the Assignor to the Assignees pursuant to the Loan Agreement does hereby assign and transfer to the Assignees the Assigned Rights, except to the extent reserved below, including, without limitation, in such assignment:

2.1.1 the right to receive payment of all amounts payable by the Purchaser pursuant to the Conditional Sale Agreement excluding, subject to the Assignees' consent, the amounts with respect to the Unit(s) of the Equipment not described in the documentation issued pursuant to Clause 3.2 hereof;

2.1.2 all claims for damages in respect of the Equipment arising as a result of any default by the Purchaser under the Conditional Sale Agreement including, without limitation, all warranty and indemnity provisions contained in the Conditional Sale Agreement; and

2.1.3 any and all rights of the Assignor to compel performance of the terms of the Conditional Sale Agreement in respect of the Equipment;

reserving to the Assignor, however, all the Assignor's obligations, undertakings and liabilities under the Conditional Sale Agreement. Nothing hereinabove contained shall prevent the Assignor from performing its obligations and undertakings, or assuming its liabilities under the Conditional Sale Agreement.

2.2 Notwithstanding anything contained in this Assignment, the Assignees hereby agree with the Assignor that, unless and until such time as an Event of Default shall have occurred and be continuing and the Conditional Sale Agreement shall have been declared to be in default, the Assignees shall not interfere with or deprive the Purchaser of peaceful and quiet enjoyment of the Equipment.

2.3 The Assignees hereby accept the foregoing assignment, subject to the terms hereof; the Assignees understand and agree that neither of them may or can benefit from this Assignment or exercise any of their respective Assigned Rights hereunder without the other Assignee also benefitting and exercising its respective Assigned Rights hereunder.

3. PERFORMANCE

3.1 It is expressly agreed that, anything herein contained to the contrary notwithstanding:

- 3.1.1 forthwith upon the execution hereof and of the Loan Agreement the Assignor will serve a Notice of Assignment to the Purchaser, in the form of Schedule "A" hereto and will secure from the Purchaser the Consent and Agreement in the form of Schedule "B" hereto;
- 3.1.2 the Assignor will exercise its respective rights and perform its respective obligations and assume its liabilities under the Conditional Sale Agreement to the extent that such rights and obligations have not been assigned as provided in Clause 2 hereof;
- 3.1.3 the Assignor shall at all times remain liable to the Purchaser under the Conditional Sale Agreement to perform all the duties and obligations of the "Vendor" thereunder to the same extent as if this Agreement had not been executed;
- 3.1.4 the exercise by the Assignees of any of the Assigned Rights shall not release the Assignor from any of its duties or obligations to the Purchaser under the Conditional Sale Agreement; and
- 3.1.5 subject to Clause 2.2 hereof, the Assignees shall have no obligation or liability under the Conditional Sale Agreement by reason of, or arising out of, this Assignment or be obliged to perform any of the obligations or duties of the Assignor under the Conditional Sale Agreement or to take any other action to collect or enforce a claim for any payment assigned hereunder.

3.2 On or before a Drawdown Date, the Purchaser shall remit to the Assignees an original of the Acceptance Certificate(s), the Statement(s) of Purchase Price and the Letter related to Purchase Price and Interest issued pursuant to the Conditional Sale Agreement, in the form of Schedules 1, 4 and 6, respectively, thereof.

3.3 The Assignor does hereby constitute the Assignees, and their successors and assigns, the Assignor's true and lawful attorneys, irrevocably, with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for monies due and to become due under or arising out of the Conditional Sale Agreement to the extent that they have been assigned by this

Assignment, to endorse any cheques or other instruments or orders in connection therewith and to file any claims or take any action or institute (or, if previously commenced, assume control of) any proceedings and to obtain any recovery in connection therewith which the Assignees may deem to be necessary with respect to such monies and claims for monies. The Assignees hereby agree to promptly notify in writing the Assignor of any use the Assignees may make of the power of attorney herein given.

4. **NOTICE OF ASSIGNMENT; FURTHER INSTRUMENTS**

4.1 The Assignor agrees and undertakes to give notice of this Assignment to the Purchaser in the form of the notice specified at Schedule "A" hereto; and

4.2 The Assignor agrees that at any time and from time to time, upon the written request of the Assignees, the Assignor will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Assignees may reasonably request in order to obtain the full benefits of this Assignment and of the rights and powers herein granted.

5. **REPRESENTATIONS AND WARRANTIES**

5.1 The Assignor does hereby represent and warrant to the Assignees that:

5.1.1 it has full power, authority and legal right to enter into, execute and deliver this Assignment and to perform its obligations hereunder and that this Assignment has been validly authorized, executed and delivered for and on behalf of the Assignor and constitutes its legal, valid and binding obligation; the Assignor's entering into, performance of or compliance with its obligations under this Assignment do not violate or will not violate any provision of any present applicable law, any of the Assignor's constitutive documents or any contract, agreement or instrument to which the Assignor is a party; the Assignor is the owner of the Assigned Rights free and clear of all liens; no right of set-off, counterclaims or defence with respect to the Assigned Rights shall be exercisable by the Assignor against the Assignees;

5.1.2 the Assignees have been furnished with five certified true and complete signed copies of the Conditional Sale Agreement;

5.1.3 the Conditional Sale Agreement is in full force and effect and is enforceable against the Assignor and the Purchaser in accordance with its terms except as such

enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally;

- 5.1.4 neither the Assignor nor, in the reasonable opinion of the Assignor, the Purchaser is in default under the Conditional Sale Agreement;
- 5.1.5 the Purchase Price constitutes adequate and fair consideration for the Equipment;
- 5.1.6 save for the rights and obligations expressly created by the Conditional Sale Agreement, there are no rights or obligations in existence as between the Purchaser and the Assignor in respect of the Equipment which may act to the detriment of the Assignees;
- 5.1.7 with the exception of the interest held by the Royal Bank of Canada under a general assignment of book debts and an assignment granted in its favour under Section 178 of the Bank Act by the Assignor, both of which to the extent of the Equipment delivered and in relation to which an Advance is made pursuant to the Loan Agreement for the payment of an amount equal to the Purchase Price hereunder will be released and discharged prior to each Advance (as defined in the Conditional Sale Agreement), the Assignor was immediately prior to this Assignment the sole owner of the Equipment, which Equipment is otherwise free and clear of any privilege, lien or encumbrances howsoever arising and of whatsoever nature; and
- 5.1.8 the Conditional Sale Agreement has not been amended as of the date hereof.

5.2 The representations and warranties in Clauses 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7 and 5.1.8 shall be deemed to be repeated by the Assignor on and as of each time an Advance is made in respect of the Equipment or any Unit thereof as if made with reference to the facts and circumstances existing on each such date.

5.3 Despite the sale, delivery and transfer of title to the Equipment by the Assignor to the Assignees pursuant to the Conditional Sale Agreement and this Assignment, all risks in respect of the Equipment, including loss or damage thereto, shall be governed by the Conditional Sale Agreement.

6. TERMINATION

If any of the conditions precedent set forth in the Conditional Sale Agreement have not been satisfied or waived in respect of the Equipment on its Delivery Date the Assignees shall

have the right to terminate this Assignment by notice to the Assignor and the Purchaser, whereupon the Assignees shall have no further obligation whatsoever to the Assignor hereunder.

7. INDEMNITY

The Assignor hereby undertakes to indemnify and hold harmless the Assignees from all claims, costs, expenses, damages and liabilities of whatever kind and nature imposed on, incurred by or asserted against the Assignees in any way relating to or arising out of the Conditional Sale Agreement and this Assignment or any action or inaction of the Assignor in connection with the Conditional Sale Agreement and this Assignment, unless those are attributable to or caused by the misconduct or negligence of the Assignees.

8. WAIVERS, REMEDIES CUMULATIVE

No failure to exercise or enforce, and no delay in exercising or enforcing or, on the part of the Assignees any right, remedy, power or privilege under this Assignment shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any such right, remedy, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, remedy, power or privilege whether hereunder or otherwise. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by applicable law.

9. SUCCESSORS AND ASSIGNS

This Assignment shall be binding on and enure to the benefit of the Assignor and the Assignees and their respective successors and permitted assigns provided that the Assignor may not assign any of its rights or transfer or purport to transfer any of its obligations hereunder or under the Conditional Sale Agreement without the prior written consent of the Assignees, which consent shall not be unreasonably withheld. The terms "Assignor" and "Assignees" when used herein shall be deemed to include their respective successors and permitted assigns.

10. **EXPENSES, TAXES**

10.1 The Assignor agrees to pay to the Assignees all expenses incurred by the Assignees in connection with the enforcement of this Assignment, in preserving, perfecting or exercising any of its rights hereunder or as a result of any default by the Assignor in the performance of any of its obligations under this Assignment; and

10.2 The Assignor agrees to pay and shall indemnify and hold harmless the Assignees against and from any notarial fees or registration, excise, recording, transaction and documentary taxes or other similar taxes, fees or charges and any penalties or interest with respect thereto which may be payable or determined payable on or in connection with the execution, delivery, filing, registration, validity, legality, enforceability or admissibility in evidence of this Assignment.

11. **AMENDMENTS, SEVERABILITY**

11.1 Neither this Assignment nor any provision hereof may be amended, changed, waived, discharged or terminated orally, but only by a statement in writing signed by all the parties hereto; and

11.2 Any term, condition, stipulation, provision, covenant or undertaking in this Assignment which is illegal, void, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, voidness, prohibition or unenforceability without invalidating the remaining provisions hereof, and any such illegality, voidness, prohibition or unenforceability in any jurisdiction shall not invalidate or render illegal, void, prohibited or unenforceable any such term, condition, stipulation, provision, covenant or undertaking in any other jurisdiction.

12. **NOTICES**

Every notice, request, demand or other communication under this Assignment:

12.1 Shall be in writing and shall be sent by registered mail postage prepaid, telecopy or messenger (confirmed in the case of a telecopy by prepaid first-class letter sent within twenty-four (24) hours of dispatch but so that the non-receipt of such confirmation shall not affect in any way the validity of the telecopy in question), as to each party hereto, to it at its address set forth herein or at such other address as shall have been or be designated by it in a written notice to the other party hereto. All such notices, requests, demands and other communications shall:

- i) if sent by messenger, be deemed to have been given upon receipt;
- ii) if transmitted by telecopy be deemed to have been given on the next business day following the day it was sent; and
- iii) if sent by registered mail postage prepaid, ten (10) days after the relevant notice has been dispatched;

12.2 and shall be addressed as follows:

- i) to the Assignor at:

Trenton Works Lavalin Inc.
Main Street, P.O. Box 130
Trenton, Nova Scotia
B0K 1X0

Attention: President

Telecopy No.: (902) 752-6648

- ii) to the Assignees at:

The Mutual Life Assurance Company of Canada
227 King Street South
Waterloo, Ontario

Attention: Corporate Loans

Telecopy No.: (519) 888-3666

and:

Sun Life Assurance Company of Canada
200 University Avenue
13th Floor
Toronto, Ontario
M5H 3C7

Attention: Private Placement Investments

Telecopy No.: (416) 595-1770

Any notice or written communication from one of the parties hereto to the Purchaser under the Conditional Sale Agreement and hereunder shall be copied to the other parties to this Assignment.

13. GOVERNING LAW

13.1 This Assignment shall take effect under and be governed by and construed in accordance with the laws of the Province of Quebec and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF the parties hereto have entered into this Assignment as of the date and year first above written.

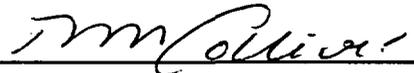
Assignor:

TRENTON WORKS LAVALIN INC.

Per: 

Assignees:

THE MUTUAL LIFE ASSURANCE COMPANY OF CANADA

Per: 

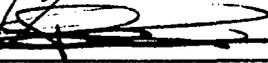
ROBERT M. COLLIVER
DIRECTOR, CORPORATE LOANS

Per: _____

SUN LIFE ASSURANCE COMPANY OF CANADA

Per: 

FOR PRESIDENT

Per: 

FOR SECRETARY

This notice and the instructions herein contained are irrevocable. Please acknowledge receipt of this notice to the Assignees on the enclosed Acknowledgement and Consent to Assignment.

Yours faithfully,

TRENTON WORKS LAVALIN INC.

Per: _____
J.W. Fitzpatrick
President

SCHEDULE "A"

NOTICE OF ASSIGNMENT

From: Trenton Works Lavalin Inc.
To: Canadian National Railway Company

Dated June 11, 1992

Dear Sirs:

We hereby give you notice that by a Conditional Sale Agreement Assignment dated as of June 11, 1992 (the "Assignment") (copy of which is attached hereto as Annex 1) between Trenton Works Lavalin Inc. (the "Company") and The Mutual Life Assurance Company of Canada and Sun Life Assurance Company of Canada (collectively the "Assignees") we have assigned absolutely to the Assignees all our rights, title benefit and interest in and to the Conditional Sale Agreement dated as of April 15, 1992 (the "Conditional Sale Agreement") between this Company and yourselves relating to eighty (80) five-pak double stack container railcars, the whole as more fully described in the Conditional Sale Agreement.

Henceforth all monies that may be payable by you under the Conditional Sale Agreement shall be paid to the account of the Assignees under the Assignment unless and until the Assignees otherwise direct; you are required to comply with the Assignees' directions.

Please note that under the aforementioned Assignment, all of our obligations and liabilities arising in connection with the Conditional Sale Agreement, thereunder or pursuant thereto remain with the Company and, except as provided in Clause 2.2 of the said Assignment, without recourse against the Assignees.

Agreement notwithstanding dissolution or liquidation of the Assignor.

3. We acknowledge that you are not responsible for the performance by the Assignor of its obligations under the Conditional Sale Agreement.

4. We hereby waive any rights of set-off, compensation or counterclaim which we may have against you with the intent and purpose that all payments by us under the Conditional Sale Agreement shall be at full face value without any deductions whatsoever.

5. We acknowledge your undertaking as provided in Clause 2.2 of the Assignment.

6. We agree that all monies that may be payable by us pursuant to the Conditional Sale Agreement shall be paid to you unless and until you otherwise direct, whereupon we agree that we will comply with the directions that you may give from time to time and at any time.

7. We agree to send you a copy of all notices under the Conditional Sale Agreement forthwith on issuance thereof.

8. We represent and warrant that:

(a) the Conditional Sale Agreement constitutes valid and binding obligations of ourselves, is in full force and effect, and has not been varied or modified in any way or cancelled, and that we are not in default thereunder; and

(b) save for the rights and obligations expressly created by the Conditional Sale Agreement, there are no rights or obligations in existence as between us and the Assignor which may act to your detriment.

9. This Consent shall be governed by and construed in accordance with the laws of Quebec.

Yours faithfully,

CANADIAN NATIONAL RAILWAY
COMPANY

Per: _____

SCHEDULE "B"

ACKNOWLEDGEMENT AND CONSENT TO ASSIGNMENT

From: Canadian National Railway Company
To: Sun Life Assurance Company of Canada
-and-
The Mutual Life Assurance Company of Canada

Dated in the City of Montreal June 11, 1992

Dear Sirs:

We acknowledge receipt of a copy of a Conditional Sale Agreement Assignment dated as of June 11, 1992 (the "Assignment") between Trenton Works Lavalin Inc. (the "Assignor") and you and of a Notice of Assignment dated June 11, 1992 sent to us by the Assignor as adequate notice of such Assignment and we further acknowledge that the Assignment is effective to confer on you all the rights, title and interest of the Assignor under the Conditional Sale Agreement dated as of April 15, 1992 between the Assignor and Canadian National Railway Company (the "Conditional Sale Agreement").

In consideration of payment to us of one dollar (\$1.00) in the lawful currency of Canada, receipt of which we hereby acknowledge and of your consenting to the Assignor selling the Equipment under the Conditional Sale Agreement we hereby agree as follows:

1. We undertake and agree to be bound and comply with the terms of the Conditional Sale Agreement to be observed or performed on our part.
2. We will not terminate, cancel, quit or surrender the Conditional Sale Agreement (except in accordance with the express terms thereof) for any reason whatsoever including, without limitation, any default by the Assignor and will continue to make payments under the Conditional Sale